

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Construction and Demolition Debris Tonnage Fee
(LAC 33:VII.529) (SW041)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.529 (Log #SW041).

This Rule will promulgate the provisions of Act 718 of the 2006 Regular Session of the Louisiana Legislature regarding the imposition of a \$0.20 per ton disposal fee assessed on construction or demolition debris not otherwise exempted by the statute. Currently, the department incurs an annual cost of approximately \$755,000 for monitoring and maintaining construction and demolition debris solid waste facilities, but does not collect any fees to fund this cost. This rule authorizes the department to collect from each facility permitted as a construction or demolition debris landfill, as part of the annual monitoring and maintenance fee, a fee not exceeding \$0.20 per ton of construction or demolition debris deposited in the facility. This fee will only apply to construction or demolition debris that is subject to a fee imposed by the facility. Submittal of this fee is not due to the department until the invoicing for fiscal year 2007-2008. Recordkeeping of data on which invoicing will be based begins on July 1, 2006. An Emergency Rule to implement these provisions was effective on July 10, 2006, and published in the *Louisiana Register* on July 20, 2006. The basis and rationale for this proposed rule are to promulgate the provisions of Act 718 of the 2006 Regular Session of the Louisiana Legislature and to ensure continued oversight and surveillance activities to prevent improper disposal of solid waste in order to protect public health and the environment.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on October 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by SW041. Such comments must be received no later than November 1, 2006, at 4:30 p.m., and should be sent to Judith A.

Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of SW041. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

Title 33
ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 5. Solid Waste Management System

Subchapter D. Solid Waste Fees

§529. Annual Monitoring and Maintenance Fee

A. - B.2.b. ...

c. for construction or demolition debris deposited at permitted construction or demolition debris facilities (Type III facilities), \$0.20/ton; and the fee is only applicable to construction or demolition debris that is subject to a fee imposed by the facility;

ed. for surface impoundments, no tonnage fee;

de. for publicly operated facilities that treat domestic sewage sludge, no tonnage fee; and

ef. for Type I-A, II-A, III (except construction or demolition debris disposal facilities), and beneficial-use facilities, no tonnage fee.

B.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq and specifically 2014(D)(5).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 33:**.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**LOG #: SW041

Person

Preparing

Statement: Denise Stafford/Sharon Parker Dept.: Environmental QualityPhone: (225) 219-3878 Office: Office of Environmental Services

Return

Address: P.O Box 4303 Rule
Baton Rouge, LA 70821 Title: Construction and Demolition Debris
Tonnage Fee (LAC 33:VII.529)

Date Rule

Takes Effect: Upon Promulgation**SUMMARY**

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs or savings to state governmental units. Construction or demolition debris landfills operated by local governmental units will be required to pay an annual maintenance and monitoring disposal fee of 20¢ per ton of construction or demolition debris, for which a tipping fee is charged, deposited in the facility, and to submit a solid waste annual disposer report to the department indicating the amount of construction and demolition debris disposed of each year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will generate \$400,000 annually from the 20¢ per ton fee on disposal of construction or demolition debris based on an annual average of approximately two million tons of construction/demolition debris disposed of in landfills in Louisiana over the past several years. An additional \$3.4 million over the next five years is anticipated to be collected from the 20¢ per ton fee on an estimated 17 million tons of construction and demolition debris remaining to be disposed statewide.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Persons and industries disposing of construction or demolition debris in these landfills may be required to pay an additional fee, if this cost is passed on to the consumer by the landfill facility.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, CPM, Executive Counsel
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature
LFO 03/09/2001

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

This rule requires the Department of Environmental Quality to collect from each facility permitted as a construction or demolition debris landfill, as part of the annual monitoring and maintenance fee, a fee not exceeding 20¢ per ton of construction or demolition debris deposited in the facility. This fee will apply to construction or demolition debris that is subject to a fee imposed by the facility. Submittal of the fee is not due to the department until the invoicing for fiscal year 2007-2008. Recordkeeping of data on which invoicing will be based will begin on July 1, 2006.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The department currently incurs an annual cost of approximately \$755,000 for monitoring and maintaining construction and demolition debris solid waste facilities but does not collect any fees to fund this cost. Act 718 of the 2006 legislature authorized the implementation of this fee.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session
(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No increase in the expenditure of funds is expected as a result of the proposed rule.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) _____ Yes. If yes, attach documentation.
(b) _____ No. If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT**WORKSHEET****I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 06-07	FY 07-08	FY08-09
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR.			
POSITIONS (#)	-0-	-0-	-0-

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

This rule will produce no material costs or savings to state agencies.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 06-07	FY 07-08	FY08-09
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No funds are necessary to implement this rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

This rule requires construction and demolition debris landfills that charge a tipping fee for construction and demolition debris to pay an annual maintenance and monitoring disposal fee of 20¢ per ton. These facilities will be required to submit a solid waste annual disposer report to the department indicating the amount of construction and demolition debris disposed of each year, beginning July 1, 2006.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

The source of funding for the local governmental units is unknown but could be from a fee passed on to the consumer.

FISCAL AND ECONOMIC IMPACT STATEMENT**WORKSHEET****II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 06-07	FY 07-08	FY08-09
STATE GENERAL FUND _____			
AGENCY SELF-GENERATED _____			
ENVIRONMENTAL TRUST FUND _____	-0-	\$ 400,000	\$ 400,000
FEDERAL FUNDS _____			
LOCAL FUNDS _____			
TOTAL	-0-	\$ 400,000	\$ 400,000

*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

This rule will generate \$400,000 annually from the 20¢ per ton fee on disposal of construction and demolition debris, based on average annual tonnage experienced over the last several years. An additional \$3.4 million over the next five years is anticipated to be collected from the 20¢ per ton fee on an estimated 17 million tons of construction and demolition debris remaining to be disposed statewide. This fee will be invoiced on prior year debris disposal. Therefore, the data on debris disposal will begin on July 1, 2006, and the first invoice will be issued in August 2007 for FY 2006-07 debris disposal.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Persons and industries disposing of construction or demolition debris in these landfills may be required to pay an additional fee, if this cost is passed on to the consumer by the landfill facility.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There will be no impact on receipts or income to persons or nongovernmental groups.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no effect on competition or employment.